

Assembly Bill No. 2138

Passed the Assembly August 22, 2016

Chief Clerk of the Assembly

Passed the Senate August 15, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 17550.20 of the Business and Professions Code, relating to business.

LEGISLATIVE COUNSEL'S DIGEST

AB 2138, Low. Sellers of travel.

Existing law regulates sellers of travel, as defined, and requires their registration with the Attorney General. Under existing law, a seller of travel is deemed to do business in this state if the seller of travel solicits business from locations in this state or solicits prospective purchasers who are located in this state.

This bill would clarify that a seller of travel is deemed to do business in this state if the seller of travel solicits business from locations in this state regardless of the geographic location of the prospective purchaser including persons located outside of this state or the country.

This bill would incorporate additional changes to Section 17550.20 of the Business and Professions Code proposed by AB 2106 that would become operative if this bill and AB 2106 are enacted and this bill is enacted last.

The people of the State of California do enact as follows:

SECTION 1. Section 17550.20 of the Business and Professions Code is amended to read:

17550.20. (a) Not less than 10 days prior to doing business in this state, a seller of travel shall apply for registration with the office of the Attorney General by filing with the Consumer Law Section the information required by Section 17550.21 and a filing fee of one hundred dollars (\$100) for each location from which the seller of travel conducts business. A late fee of five dollars (\$5) per day, up to a maximum of five hundred dollars (\$500), shall be paid for each day after the time specified by this section until the filing fee and the information required by Section 17550.21 are received. No registration shall be issued or approved until the late fee, and the filing and late fees for each year the seller of travel operated without being registered, have been paid. A

seller of travel shall be deemed to do business in this state if the seller of travel solicits business from locations in this state regardless of the geographic location of the prospective purchaser including persons located outside of this state or the country or solicits prospective purchasers who are located in this state.

(b) Registration shall be valid for one year from the effective date thereof shown on the registration issued by the office of the Attorney General and may be annually renewed by making the filing required by Section 17550.21 and paying a filing fee of one hundred dollars (\$100) for each location from which the seller of travel conducts business. A late fee of five dollars (\$5) per day, up to a maximum of five hundred dollars (\$500), shall be paid for each day after the time specified by this section until the filing fee and the information required by Section 17550.21 are received. No registration shall be renewed until the late fee, and the filing and late fees for each year the seller of travel operated without being registered, have been paid.

(c) Whenever, prior to expiration of a seller of travel's annual registration, there is a material change in the information required by Section 17550.21, the seller of travel shall, within 10 days, file an addendum updating the information with the Consumer Law Section of the office of the Attorney General.

(d) (1) Not less than 10 days prior to the transfer or sale of any interest in a seller of travel, the selling or transferring owner shall file with the office of the Attorney General, Seller of Travel Program, a notice of encumbrance, sale, or transfer of ownership, using a form provided for that purpose by the office of the Attorney General. The notice shall provide the information required pursuant to subdivision (d) of Section 17550.21 as to each transferee.

(2) Until the time the notice of encumbrance, sale, or transfer of ownership required in paragraph (1) is filed as required, the selling, encumbering, or transferring owner is responsible for all acts of and obligations imposed by law on the transferee sellers of travel to the same extent as they would have been responsible had there been no transfer, sale, or encumbrance.

(e) The office of the Attorney General shall suspend the registration of any seller of travel who (1) fails to make any payment required pursuant to Article 2.7 (commencing with Section 17550.35) or (2) submits a check in payment of a registration fee or late fee required by this section that is not

honored by the institution on which it is drawn. The Attorney General shall provide written notice to the seller of travel by first-class mail at the seller of travel's place of business set forth in the registration statement that the seller of travel's registration has been suspended until all fees that are due have been paid. The registration of the seller of travel shall be suspended until all such payments due have been collected.

(f) The Attorney General may, at his or her discretion and subject to supervision by the Attorney General or his or her delegate, contract out all or any part of the processing of registrations required by this section.

(g) This section does not apply to an individual, natural person who meets all of the following conditions:

(1) Has a written contract with a registered seller of travel to act on that registered seller of travel's behalf in offering or selling air or sea transportation and other travel goods or services in connection with the transportation.

(2) Acts only on behalf of a registered seller of travel with whom the person has a written contract in the offer or sale to a passenger of air or sea transportation and other goods or services in connection with the transportation and sells no other air or sea transportation or travel services to that passenger.

(3) Provides air or sea transportation or travel services that are offered or sold pursuant to the official agency appointment of the registered seller of travel with whom the person has a written contract.

(4) Does not receive any consideration for air or sea transportation or other travel services from the passenger.

(5) Requires the passenger to pay all consideration for air or sea transportation or other travel services directly to the air carrier or ocean carrier or to the registered seller of travel.

(6) Discloses both of the following:

(A) The person is acting on behalf of a registered seller of travel.

(B) The name, address, telephone number, and registration number of the registered seller of travel on whose behalf the person is acting.

The person shall make the disclosures required by this paragraph in writing to the passenger at the same time the passenger receives notice under Section 17550.13. If the person transacts business in this state on the Internet, the disclosures also shall appear on the

home page of the person's Web site and shall be prominently set forth in the first electronic mail message sent to the passenger that refers to the passenger's purchase of air or sea transportation or travel services.

(h) Whenever the Attorney General determines that a registration application is accurate and complete, the application shall be processed and a registration certificate shall be issued to the seller of travel within 21 days.

SEC. 1.5. Section 17550.20 of the Business and Professions Code is amended to read:

17550.20. (a) (1) Not less than 10 days prior to doing business in this state, a seller of travel shall apply for registration with the office of the Attorney General by filing with the Consumer Law Section the information required by Section 17550.21 and paying the following fees, as applicable:

(A) A filing fee of one hundred dollars (\$100) for each location from which the seller of travel conducts business.

(B) A late fee of five dollars (\$5) per day, up to a maximum of five hundred dollars (\$500), for each day after the time specified by this section until the filing fee and the information required by Section 17550.21 are received.

(2) A seller of travel may annually renew its registration by making the filing required by Section 17550.21 and paying the filing fees and late fees required by paragraph (1).

(3) A registration shall not be issued, approved, or renewed until the late fee, the filing and late fees for each year the seller of travel operated without being registered, and any outstanding assessments due to the Travel Consumer Restitution Corporation as required by Sections 17550.43 and 17550.44 have been paid.

(4) A seller of travel shall be deemed to do business in this state if the seller of travel solicits business from locations in this state regardless of the geographic location of the prospective purchaser including persons located outside of this state or the country or solicits prospective purchasers who are located in this state.

(b) Registration shall be valid for one year from the effective date thereof shown on the registration issued by the office of the Attorney General.

(c) Whenever, prior to expiration of a seller of travel's annual registration, there is a material change in the information required by Section 17550.21, the seller of travel shall, within 10 days, file

an addendum updating the information with the Consumer Law Section of the office of the Attorney General.

(d) (1) Not less than 10 days prior to the transfer or sale of any interest in a seller of travel, the selling or transferring owner shall file with the office of the Attorney General, Seller of Travel Program, a notice of encumbrance, sale, or transfer of ownership, using a form provided for that purpose by the office of the Attorney General. The notice shall provide the information required pursuant to subdivision (d) of Section 17550.21 as to each transferee.

(2) Until the time the notice of encumbrance, sale, or transfer of ownership required in paragraph (1) is filed as required, the selling, encumbering, or transferring owner is responsible for all acts of and obligations imposed by law on the transferee sellers of travel to the same extent as they would have been responsible had there been no transfer, sale, or encumbrance.

(e) (1) The office of the Attorney General shall suspend the registration of a seller of travel who does any of the following:

(A) Fails to make any payment required pursuant to Article 2.7 (commencing with Section 17550.35).

(B) Submits a check in payment of a registration fee or late fee required by this section that is not honored by the institution on which it is drawn.

(C) Fails to provide the file number assigned by the Secretary of State or the Franchise Tax Board to the seller of travel, as required by subdivision (m) of Section 17550.21.

(2) The Attorney General shall provide written notice to the seller of travel by first-class mail at the seller of travel's place of business set forth in the registration statement that the seller of travel's registration has been suspended until all fees that are due have been paid. The registration of the seller of travel shall be suspended until all such payments due have been collected.

(f) The Attorney General may, at his or her discretion and subject to supervision by the Attorney General or his or her delegate, contract out all or any part of the processing of registrations required by this section.

(g) This section does not apply to a person who is an individual, a single-member limited liability company whose sole member is an individual, or a single-shareholder "S" corporation whose sole shareholder is an individual, that meets all of the following:

(1) Has a written contract with a registered seller of travel to act on that registered seller of travel's behalf in offering or selling air or sea transportation and other travel goods or services in connection with the transportation.

(2) Acts only on behalf of a registered seller of travel with whom the person has a written contract in the offer or sale to a passenger of air or sea transportation and other goods or services in connection with the transportation and sells no other air or sea transportation or travel services to that passenger.

(3) Provides air or sea transportation or travel services that are offered or sold pursuant to the official agency appointment of the registered seller of travel with whom the person has a written contract.

(4) Does not receive any consideration for air or sea transportation or other travel services from the passenger.

(5) Requires the passenger to pay all consideration for air or sea transportation or other travel services directly to the air carrier or ocean carrier or to the registered seller of travel.

(6) Discloses both of the following:

(A) The person is acting on behalf of a registered seller of travel.

(B) The name, address, telephone number, and registration number of the registered seller of travel on whose behalf the person is acting.

The person shall make the disclosures required by this paragraph in writing to the passenger at the same time the passenger receives notice under Section 17550.13. If the person transacts business in this state on the Internet, the disclosures also shall appear on the home page of the person's Internet Web site and shall be prominently set forth in the first electronic mail message sent to the passenger that refers to the passenger's purchase of air or sea transportation or travel services.

(h) Whenever the Attorney General determines that a registration application is accurate and complete, the application shall be processed and a registration certificate shall be issued to the seller of travel within 21 days.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 17550.20 of the Business and Professions Code proposed by both this bill and Assembly Bill 2106. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 17550.20 of

the Business and Professions Code, and (3) this bill is enacted after Assembly Bill 2106, in which case Section 1 of this bill shall not become operative.

Approved _____, 2016

Governor